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Montana. Division
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WORKERS' Compensation

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Montana workers' compensation insurance



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The information contained in this pamphlet applies to accidents occurring on or after July 1, 1987. Injuries before this date are compensated according to the law in effect at the time of the injury.

Prepared for Montana
employees and employers
by the



DIVISION OF
WORKERS'
COMPENSATION



5 South Last Chance Gulch
Helena, Montana 59601

PAM 1

Revised 2/1/88

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Summary of the Workers' Compensation Law

Workers' Compensation Insurance:

Workers' compensation insurance is a state mandated insurance which provides wage compensation and medical benefits and, if necessary, rehabilitation to employees injured on the job. Under normal circumstances, an employer who properly carries this insurance is not liable for damages due to industrial injuries suffered by its employees. Severe penalties can be assessed against a noncomplying employer. Neither general liability nor health and accident insurance policies are substitutes for workers' compensation insurance.

Coverage:

The Workers' Compensation Act of Montana, with limited exceptions, requires all employers to cover all of their employees including full-time, part-time, seasonal or occasional employees.

Exceptions:

The following employments do not require coverage: (1) household and domestic employees; (2) employees who do not work in the usual course of the employer's business operation; (3) the owner of a sole proprietorship or the working partners of a partnership other than certain independent contractors, the employees of such entities must be covered; (4) employees covered by federal compensation laws; (5) individuals performing services in return for aid or sustenance only (such as those working only for board and room); (6) an official at a school amateur athletic event; (7) real estate brokers or salesmen; (8) sellers of consumer products used primarily in the home; and (9) news carriers and free-lance correspondents under certain circumstances. Also, the Montana Attorney General has ruled that Indian employers on Indian reservations are not required to carry workers' compensation insurance.

Corporate Officers & Independent Contractors:

Certain corporate officers & independent contractors with the approval of the Division of Workers' Compensation, may elect not to be covered. Application forms are provided by the Division.

Coverage Obtained:

Employers may obtain coverage through private insurance companies licensed to write workers' compensation insurance in Montana, or the State Compensation Insurance Fund (SCIF). With Division approval, certain large employers and employer groups which meet statutory and administrative requirements are allowed to self-insure.

Premium Payments:

Employers pay the insurance premiums based on a percentage of employees' wages. The law prohibits employers from deducting or obtaining any part of the premium from employees.

Reporting Requirements:

INJURED EMPLOYEES—Employees have two reporting requirements. 1) They must notify the employer of an industrial accident within 30 days of its occurrence; and 2) submit a claim for compensation to the employer's insurer or the Division within 12 months of the accident. This should be done for all injuries in order to protect the employee's right to benefits in the event a seemingly minor injury develops into a more serious condition.

EMPLOYERS—Employers must report every industrial injury to their insurer or the Division within 6 days of notice of the injury. This report must be submitted even though the employer questions whether the reported accident is job-related. The form provides space for the employer to fully explain all conditions concerning the accident.

Employer and employee reporting forms are provided by the Division.

Benefits Available:

MEDICAL BENEFITS—

The insurer must furnish reasonable doctor, hospital, and medical services (including prescription drugs), and other treatment approved by the Division.

Medical fees are paid according to a schedule established by the Division. Scheduled hospital rates will be effective January 1, 1988. Once an insurer accepts liability, the injured worker is not responsible for medical costs associated with the injury.

The worker may select the treating physician. An injured employee must receive permission from the insurer before changing physicians. The treating physician must obtain advance consent of the insurer in order to refer the employee to a specialist.

COMPENSATION BENEFITS—

Temporary Total Disability. Until the injured worker is medically restored to the extent the injuries will permit, s/he is entitled to weekly compensation of $66\frac{2}{3}\%$ of the wages received at the time of injury up to a maximum of \$299 per week. The insurer pays these benefits from the 7th day of wage loss. An injured employee cannot receive both sick leave and workers' compensation benefits simultaneously. However, days during which the employee receives sick leave can be counted toward the first 6 days of wage loss. If the employee also receives social security disability benefits, the weekly compensation benefits are reduced up to one-half the social security payments.

Permanent Partial Disability. When an injured employee is medically restored to the extent possible, s/he may be entitled to impairment or wage supplement benefits. The weekly compensation rate for wage supplement benefits is $66\frac{2}{3}\%$ of the difference between the actual wages at the time of injury and the wages the worker is qualified to earn — not to exceed \$149.50. The weekly compensation rate for impairment benefits is 5 weeks times $66\frac{2}{3}\%$ of the wages received at the time of injury for each percentage point of impairment, subject to maximum weekly amount of \$149.50. The total wage supplement and impairment benefit cannot exceed 500 weeks.

Permanent Total Disability. If a worker is no longer temporary totally disabled and unable to work because of the injury s/he may be eligible for permanent total disability benefits. Benefits terminate when the employee is eligible to receive social

security retirement or returns to regular employment. If the employee receives social security disability payments, the compensation benefits are reduced up to one-half the social security payments. The permanent total and temporary total rate is the same.

A maximum cost of living increase of 3% per year, limited to 10 adjustments, is provided after the claimant has received 104 weeks of permanent total benefits.

DEATH BENEFITS—

If an injury causes death, the spouse and unmarried children are entitled to weekly compensation of $66\frac{2}{3}\%$ of the wages at the time of the worker's industrial accident up to a maximum of \$299 per week, or a minimum of \$149.50 per week. The spouse is eligible for weekly benefits for 500 weeks unless s/he remarries, at which time benefits cease. Unmarried children receive benefits until age 18, or age 22 if attending an accredited school or enrolled in an accredited apprenticeship program. If the employee leaves no spouse or unmarried children, then dependent parents, brothers, or sisters may be eligible for weekly benefits. If there are no beneficiaries, the insurer pays \$3,000 to the surviving nondependent parents. The insurer also pays up to \$1,400 for burial expense after social security and veterans administration payments have been deducted.

REHABILITATION BENEFITS—

Total Benefits. Benefits may be paid at the temporary total rate during the rehabilitation evaluation period not to exceed 26 weeks unless extended by the Division for good cause. Payments start after the injured worker reaches maximum healing and continue until the insurer's designated rehabilitation provider has completed a rehabilitation assessment.

Partial Benefits. Benefits are paid in combination with wage supplement benefits during the time the injured worker is engaged in an approved retraining program. In conjunction with the wage supplement benefits, these benefits are designed to pay the injured worker at the temporary total rate.

Auxiliary Benefits. The insurer may pay reasonable travel and relocation expenses to assist in return-

ing an injured worker to work, including job search, on-the-job training, etc. The benefits are limited to \$4,000.

SUBSEQUENT INJURY FUND BENEFITS—

The Subsequent Injury Fund assists both the injured worker and future employers. A person with a permanent physical impairment which is a substantial obstacle to obtaining employment, whether resulting from job-related injuries or not, may be entitled to certification. The certification assists an individual in obtaining employment because it limits the liability of the employer in the event the certified worker is again injured on the job. Applications for certification may be obtained from the Division.

Maximum Weekly Compensation Allowed:

Maximum weekly benefits are generally determined in accordance with the state's average weekly wage. However, benefit rate maximums are frozen at the 1987 level until 7/1/89. The maximum benefit level for temporary total, permanent total, and death claims is \$299 per week. For permanent partial disability the maximum weekly rate is \$149.50. Benefit levels are fixed as of the date of injury and are not adjusted in subsequent years except for the cost of living adjustments provided in permanent total cases.

Other Services:

The Division employs trained experts in the field of occupational safety and accident prevention. Their services are available, including courtesy inspections at the employer's place of business, upon the employer's request.

For More Information:

For further information about workers' compensation and related matters, contact the Division of Workers' Compensation, 5 South Last Chance Gulch, Helena, Montana 59601.

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